

SUBCOMMITTEE: SUBCOMMITTEE #1

SENATE BILL NO. 859

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on/for _____)

on _____)

(Patron Prior to Substitute--Senator Chafin)

A BILL to amend and reenact §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia, relating to arrowgun hunting; license.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, and 29.1-549 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-916. Prohibiting shooting of compound bows, slingbows, arrowguns, crossbows, longbows, and recurve bows.

Any locality may prohibit the shooting of an arrow from a bow or arrowgun in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. For the purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

§ 15.2-1209. Prohibiting outdoor shooting of firearms or arrows from bows or arrowguns in certain areas.

Any county may prohibit the outdoor shooting of firearms or arrows from bows or arrowguns in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

For purposes of this section, "bow" includes all compound bows, crossbows, slingbows, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw weight of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

Any county that prohibits the outdoor shooting of firearms or arrows from bows or arrowguns shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption for the shooting of firearms or arrowguns shall apply on land of at least five acres that is zoned for agricultural use. Such exemption for the shooting of arrows from bows shall apply on land of at least two acres that is zoned for agricultural use.

§ 18.2-285. Hunting with firearms while under influence of intoxicant or narcotic drug; penalty.

It shall be unlawful for any person to hunt wildlife with a firearm, bow and arrow, slingbow, arrowgun, or crossbow in the Commonwealth while he is (i) under the influence of alcohol; (ii) under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree that impairs his ability to hunt with a firearm, bow and arrow, slingbow, arrowgun, or crossbow safely; or (iii) under the combined influence of alcohol and any drug or drugs to a degree that impairs his ability to hunt with a firearm, bow and arrow, slingbow, arrowgun, or crossbow safely. Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor. Conservation police officers, sheriffs, and all other law-enforcement officers shall enforce the provisions of this section.

§ 18.2-286. Shooting in or across road or in street.

If any person discharges a firearm, crossbow, slingbow, arrowgun, or bow and arrow in or across any road, or within the right-of-way thereof, or in a street of any city or town, he shall, for each offense, be guilty of a Class 4 misdemeanor.

The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in performance of their lawful duties.

§ 29.1-306. Special archery license, slingbow license, and crossbow license.

There shall be a license for hunting with a bow and arrow, slingbow, or crossbow, during the special archery seasons, which shall be in addition to the licenses required to hunt small and big game.

Any person who is disabled so as to prevent drawing the weight of a bow or crossbow may obtain such license for hunting with an arrowgun. The applicant shall provide proof of disability acceptable to the Director on a standardized form provided by the Department, which shall be in the person's possession while hunting with an arrowgun.

The fee for the special license shall be \$17 for a resident and \$30 for a nonresident. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

§ 29.1-307. Special muzzleloading license.

There shall be a license for hunting with a muzzleloader or arrowgun during the special muzzleloading seasons, which shall be in addition to the license required to hunt small game.

The fee for the special license shall be ~~twelve dollars~~ \$12 for a resident and ~~twenty-five dollars~~ \$25 for a nonresident. The special muzzleloader license may be obtained from the clerk or agent whose duty it is to sell licenses in any county or city. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

§ 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.

A. All wild birds and wild animals may be hunted with the following weapons unless shooting is expressly prohibited:

1. A shotgun or muzzleloading shotgun not larger than 10 gauge;
2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal through the loading end, so as to reduce the capacity of the gun to not more than three shells at one time in the magazine and chamber combined, unless otherwise allowed by Board regulations;
3. A rifle, a muzzleloading rifle, or an air rifle;
4. A bow and arrow;
5. [Expired.]

6. A crossbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306;

7. A slingshot, except when hunting deer, bear, elk, or turkey; ~~and~~

8. An arrowgun, which is a pneumatic-powered air gun that fires an arrow; and

9. A slingbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306 except when hunting bear or elk.

B. A pistol, muzzleloading pistol, or revolver may be used to hunt nuisance species of birds and animals.

C. In the counties west of the Blue Ridge Mountains, and counties east of the Blue Ridge where rifles of a caliber larger than .22 caliber may be used for hunting wild birds and animals, game birds and animals may be hunted with pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater and under the same restrictions and conditions as apply to rifles, provided that no cartridge shall be used with a bullet of less than .23 caliber. In no event shall pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater be used if rifles of a caliber larger than .22 caliber are not authorized for hunting purposes.

D. The use of muzzleloading pistols and .22 caliber rimfire handguns is permitted for hunting small game where .22 caliber rifles are permitted.

E. The use of muzzleloading pistols of .45 caliber or larger is permitted for hunting big game where and in those seasons when the use of muzzleloading rifles is permitted. The Board may adopt regulations that specify the types of muzzleloading pistols and the projectiles and propellants that shall be permitted.

F. The hunting of wild birds and wild animals with fully automatic firearms, defined as a machine gun in § 18.2-288, is prohibited.

G. The hunting of wild birds or wild animals with (i) weapons other than those authorized by this section or (ii) weapons that have been prohibited by this section is punishable as a Class 3 misdemeanor.

§ 29.1-521. Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.

A. The following shall be unlawful:

106 1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm,
107 or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or
108 assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of
109 any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who
110 hunts or kills raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who
111 hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by
112 the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii)
113 any landowner or member of his family or any person with written permission from the landowner who
114 hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property,
115 except within 200 yards of a place of worship or any accessory structure thereof. However, a person
116 lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting
117 shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

118 2. To destroy or molest the nest, eggs, dens, or young of any wild bird or wild animal, except
119 nuisance species, at any time without a permit as required by law.

120 3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained
121 the daily bag or season limit during such day or season. However, any properly licensed person, or a
122 person exempt from having to obtain a license, who has obtained such daily bag or season limit while
123 hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or
124 conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow,
125 an unloaded slingbow, an unloaded arrowgun, or an unloaded crossbow. Any properly licensed person, or
126 person exempt from having to obtain a license, who has obtained such season limit prior to commencement
127 of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or
128 conducting drives, provided he does not have a firearm, bow, slingbow, arrowgun, or crossbow in his
129 possession.

130 4. To knowingly occupy any baited blind or other baited place for the purpose of taking or
131 attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal
132 for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with

violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except as provided in § 29.1-521.3.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps under specified conditions.

10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

B. Notwithstanding any other provision of this article, any American Indian who produces verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

"Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

§ 29.1-521.2. Violation of § 18.2-286 while hunting; revocation of license and privileges.

A. Any firearm, crossbow, slingbow, arrowgun, or bow and arrow used by any person to hunt any game bird or game animal in a manner which violates § 18.2-286 may, upon conviction of such person

violating § 18.2-286, be forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. The officer or other person seizing the property shall immediately give notice to the attorney for the Commonwealth.

B. The court may revoke the current hunting license and privileges of a person hunting any game bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit that person from hunting for a period of one to five years. If found hunting during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsection C of § 18.2-56.1.

§ 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.

Every vehicle, firearm, crossbow, slingbow, arrowgun, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer between a half hour after sunset and a half hour before sunrise in violation of § 29.1-523, and every vehicle used in the transportation of the carcass, or any part thereof, of a deer so killed shall be forfeited to the Commonwealth. Upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.

§ 29.1-525. Employment of lights under certain circumstances upon places used by deer.

A. Any person in any vehicle and then in possession of any firearm, crossbow, slingbow, arrowgun, bow and arrow, or speargun who employs a light attached to the vehicle or a spotlight or flashlight to cast a light beyond the water or surface of the roadway upon any place used by deer shall be guilty of a Class 2 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in the second degree and subject to the same punishment as a principal in the first degree. This subsection shall not apply to a landowner in possession of a weapon when he is on his own land and is making a bona fide effort to protect his property from damage by deer and not for the purpose of killing deer unless the landowner is in possession of a permit to do so pursuant to the provisions of § 29.1-529.

B. Any person in any motor vehicle who deliberately employs a light attached to such vehicle or a spotlight or flashlight to cast a light beyond the surface of the roadway upon any place used by deer, except upon his own land or upon land on which he has an easement or permission for such purpose, shall

214 be guilty of a Class 4 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie
215 a principal in the second degree and subject to the same punishment as a principal in the first degree.

216 C. The provisions of subsections A and B shall not apply to activities conducted by a locality
217 pursuant to a permit or written authorization issued by the Department.

218 D. In addition to the penalties prescribed in subsection A, the court shall revoke the current hunting
219 license and privileges of the person convicted of a violation of subsection A and prohibit the person from
220 hunting for a period of one to five years. In addition to the penalties prescribed in subsection B, the court
221 may revoke the current hunting license and privileges of the person convicted of a violation of subsection
222 B and prohibit that person from hunting for one to five years. If a person convicted of a violation of
223 subsection A or B is found hunting during the prohibited period, the person shall be guilty of a Class 2
224 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department
225 pursuant to subsections C and D of § 18.2-56.1.

226 **§ 29.1-549. Hunting deer from watercraft.**

227 A. Any person who kills or attempts to kill any deer while the person is in a boat or other type
228 watercraft shall be guilty of a Class 4 misdemeanor.

229 B. Every boat or other watercraft and their motors, and any firearm, slingbow, arrowgun,
230 crossbow, bow and arrow, or speargun, used with the knowledge or consent of the owner or lienholder
231 thereof in killing or attempting to kill deer in violation of this section shall be forfeited to the
232 Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1
233 et seq.) of Title 19.2 the proceeds of sale shall be disposed of according to law.

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